

Order

Michigan Supreme Court
Lansing, Michigan

March 5, 2019

Bridget M. McCormack,
Chief Justice

156724

David F. Viviano,
Chief Justice Pro Tem

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 156724
COA: 339876
Oakland CC: 2016-258995-FC

ERIK DAVON THOMPSON,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the October 3, 2017 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Oakland Circuit Court for further proceedings consistent with this order. On remand, appointed counsel may file, within six months of the date of this order, any necessary or appropriate postconviction motions in the trial court as to the defendant's December 13, 2016 plea-based conviction. If a postconviction motion is filed in the trial court, counsel may file an application for leave to appeal to the Court of Appeals within six months of the order disposing of that motion. The defendant was effectively deprived, through no fault of his own, of the opportunity to have appointed appellate counsel file a timely motion to withdraw the plea. The Court of Appeals erred when it concluded that the defendant had failed to demonstrate that the issue should be decided initially by the trial court. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should now be reviewed by this Court.

We do not retain jurisdiction.



s0225

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 5, 2019

Clerk